

**COFFEY KAYE MYERS & OLLEY**

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SCOTT GILBERT  
203 Skeet Circle  
Bear, Delaware 19701

Plaintiff

vs.

NO.

NATIONAL RAILROAD PASSENGER  
CORPORATION (AMTRAK)

Defendant

**CIVIL ACTION COMPLAINT**

1. The plaintiff herein is Scott Gilbert, a citizen and resident of the state of Delaware, residing therein at 203 Skeet Circle, Bear, Delaware, 19701.

2. This action arises under the Act of Congress, April 22, 1908, c. 149, 35 Stat. 65, 51 et seq., and further amended by and amendments thereto, U.S.C.A. Title 45, the Act of Congress, approved by the President of the United States on August 11, 1939, Chapter 685 - First Session of the 76th Congress, known and cited as "The Federal Employers' Liability Act".

3. The defendant is a corporation duly organized and existing under and by virtue of the laws of the United States of America and regularly does business in the Eastern District of Pennsylvania.

4. At the time and place hereinafter mentioned and for a long time prior thereto, the defendant, as a common carrier, operated trains carrying passengers, express packages, baggage and

foreign and domestic mail, in commerce, between the different states of the United States and its territories.

5. At the time and place hereinafter mentioned, the acts of omission and commission, causing the injuries to the plaintiff, were done by the defendant, its agents, servants, workmen and/or employees, acting in the course and scope of their employment with, and under the control of, the defendant.

6. At the time and place hereinafter mentioned, the plaintiff and the defendant were engaged in interstate commerce between the different states of the United States and its territories.

7. At all times material hereto, plaintiff was employed by defendant National Railroad Passenger Corporation as a car repairman and mechanic.

8. All of the property, equipment and operations involved in the accident herein referred to were owned by and under the control of the defendant, its agents, servants, workmen and/or employees.

9. As a result of the accident herein referred to, plaintiff has suffered a loss and impairment of earnings and earning power and may suffer the same for an indefinite time in the future; has undergone great physical pain and mental anguish and may undergo the same for an indefinite time in the future; has been obliged to and may have to continue to expend large sums of money in the future in an effort to effect a cure of his injuries, and has been unable to attend to his usual duties and occupation and may be unable to attend to the same for an indefinite time in the future, all to his great detriment and loss.

10. The incident herein referred to was caused solely and exclusively by the negligence of the defendant, its agents, servants, workmen and/or employees, and was due in no manner

whatsoever to any act or failure to act on the part of the plaintiff.

11. On or about Wednesday, January 4, 2017, at approximately 11:00 a.m., and for some time prior thereto, plaintiff was employed by defendant Amtrak as a mechanic and car repairman working at Amtrak's shops in Wilmington, Delaware. On the aforementioned date, and at the aforementioned time, plaintiff was assigned to utilize an overloaded tool box in order to do his job.

12. As plaintiff was attempting to maneuver the tool box, it dropped downward, yanking and pulling his right arm downward and causing the injuries described below.

13. As a result of the negligence of the defendant, its agents, servants, workmen and/or employees, including but not limited to, failing to safely and properly load the tool box, failing to provide plaintiff with a safe and proper tool box with two handles and failing to comply with Amtrak's safety policies; plaintiff sustained serious, painful and permanent injuries more particularly hereinafter set forth.

14. The aforesaid accident was caused by the negligence of the defendant, its agents, servants, workmen and/or employees, and by the defendant's violation of "The Federal Employers' Liability Act" and was due in no manner whatsoever to any act or failure to act on the part of the plaintiff.

15. As a result of the aforesaid accident, plaintiff sustained serious and permanent injuries to his right shoulder, including, but not limited to, partial rotator cuff tear, post traumatic impingement syndrome with subacrominal bursitis, and Type 1 superior labral tear; all requiring surgical repair on September 7, 2017. The full extent of plaintiff's injuries are not presently known.

WHEREFORE, plaintiff claims of the defendant, a sum in excess of One Hundred Fifty Thousand Dollars (\$150,000.00).

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